

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION**

**March 19, 2009**

**PUBLIC HEARING  
DOCKET NO. 10790**

**CASE NO. 10790**

**Request**

Change in Zoning from R-4 Residential to C-1 to permit retail, restaurant, and bank uses on property located at 3201 Dover Avenue (Tax Block 1018 Lot 51 and Tax Block 1117 Lot 32), containing 6.6 acres and being in Louisville Metro. Conditional Use Permits for outdoor alcohol sales and a Land Development Code waiver for building design also being requested.

Project Name:	Joy – Greenbelt
Location:	3201 Dover Ave.
Owner(s):	Greenbelt Partners, LLC, Mark & Kristie Griffin 80 Nimrod Court Brandenburg, KY 40108
Applicant:	Joy & Associates, Inc. 9700 Park Place Avenue, Suite 201 Louisville, KY 40241
Representative:	WyattTarrant and Combs 500 West Jefferson Street, Suite 2700 Louisville, KY 40202
Engineer/Architect:	Land Design and Development 503 Washburn Avenue, Suite 101 Louisville, KY 40222
Project Size/Area:	6.6 Acres
Jurisdiction:	Metro Louisville
Council District:	1 – Judith Green
<b>Case Manager:</b>	<b>Julia Williams, Planner II</b>

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Personnel**

Julia Williams, Planner II  
Planning & Design Services  
444 South 5<sup>th</sup> Street, Suite 300  
Louisville, KY 40202

**Agency Testimony**

02:23 Julia Williams presented the case using a PowerPoint presentation. The zoning around the proposed development is primarily R-4. There has been some recent commercial development in the area.

The proposal is for R-4 to C-1 to permit mixed retail, restaurant and bank uses. Conditional Use Permits are requested for outdoor alcohol sales and consumption. A waiver is also being requested to not provide windows and doors for 50% of the wall surfaces at street level.

02:24 Issues brought up at LD&T included an expansion of the Conditional Use Permit area. Ms. Williams said that the applicant did expand their Conditional Use Permit area at the restaurant and it is reflected on the site plan.

Ms. Williams said that another concern brought up at LD&T was the façade waiver. She said the applicant took into consideration a rendering that staff member Bob Kessaer had designed showing an awning and spandrel windows. The applicant did implement those suggestions and provided additional space for lighting. She further stated that these changes are used as mitigation but do not eliminate the waiver.

02:26 Ms. Williams showed photos of the subject property. She said there is currently one home on the site and it is proposed to be demolished. The rest of the site is heavily wooded.

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02:27 Ms. Williams summarized some of the additional review issues brought up at LD&T to include; safety with regards to the rear employee parking area, Maintenance and Pedestrian connection.

Some of the citizen concerns were also summarized by Ms. Williams, which included; light, noise pollution and the impact of the development on the surrounding neighborhood.

02:28 Ms. Williams listed her findings in support of the zoning, CUP and waiver request. However, building elevation examples for outlots as well as a unified signage plan has not been submitted, but the applicant has offered 2 binding elements that address these items.

**Those who spoke in support**

Debra Bilitski  
500 W. Jefferson Street  
Louisville, KY 40202

Curtis Petty  
503 Washburn Ave, Suite 101  
Louisville, KY 40222

Jim Franke  
3200 Dover Avenue  
Louisville, KY 40216

Gary W. Joy (signed form, did not speak)  
Joy & Associates  
9700 Park Plaza Avenue, Suite 201  
Louisville, KY 40241

**Testimony of Proponents**

02:33 Deborah Bilitski with Wyatt, Tarrant & Combs, represented the applicant. She used a PowerPoint presentation to present her case. A site plan, aerial photos and photographs of the site and surrounding areas were shown.

02:36 Ms. Bilitski said that character of the area changed when the form district was changed to Suburban Workplace as a result of the Wal-Mart development. She said that the proposed development is in compliance with the Neighborhood Form District and compatible with the existing form district.

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02:37 Curtis Petty with Land Design and Development explained the design of the development. He said by aligning the retention pond to create a natural focal point and connecting it to the architectural feature of the tower, visual continuity was created.

Mr. Petty said Public Works requested the entrance on Dover to be pushed further away from Greenbelt to accommodate more “stacking” for traffic. He said they eliminated a cut-through making this site more of a destination and making it safer for pedestrians by slowing the traffic flow and reducing traffic speed.

02:39 Mr. Petty said amenities have been added that are not required by the code thus making pedestrian connections feasible.

02:39 He discussed road improvements and showed photos of problem road areas that are planned to be improved. Improvements planned are widening the roads and creating turn lanes as well as other detailed road improvements. He said they are dedicating standard right of way and adding other improvements including turn lanes.

02:42 Elevations were shown of the building and explanations were given of how the waiver request would be mitigated.

02:42 Safety concerns have been raised with regard to employee parking lot areas. Using CPTED, a crime prevention website, Mr. Petty said they have addressed a lot of these safety issues with lighting.

According to the CPTED website, shrubs should not be more than 3ft in height along the property line. Mr. Petty said that buffering requirements in the code require taller shrubs and to compensate they are trying to keep shrubs as close to the perimeter as possible. He contended that by keeping the plantings and the screening 15ft from the property line and 25ft in the back, visual contact should be effective to spot any intruders in the area.

02:44 Jim Franke an adjacent property owner said he thinks that the development will keep the mosquito infestation under control because it is currently infested.

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He suggested a traffic light at Dover because there have been fatal accidents at that intersection. He also thinks city water should be used in the area instead of well water which is presently being used.

02:47 Deborah Bilitski requested that the booklet and PowerPoint that she has presented be entered into the record. She asked that if this proposal is approved that the Commission adopt her findings to include the waiver and the CUP.

02:48 Ms. Bilitski said a binding element is listed which requires a fountain be placed on site and she would like the option of not providing a fountain and is not sure if the fountain would hold water permanently. She said there are 2 binding elements; one states that the applicant is to come back to staff with a design for the out-lots and the other is to come back to staff with a unified sign plan. She said that they do not have these at the present time, but would bring back before they begin building.

02:51 A binding element was agreed upon to replace dead or dying landscape within 60 days per Commissioners' request.

02:52 Commissioner Carlson mentioned that there is a binding element stating that the elevations presented today, must be the same as the final plan elevations. He pointed out to Ms. Bilitski that she does not have a design for the out-lots and that she said there is a binding element stating that those designs would be brought back to staff. His concern is whether or not the binding elements should be re-worded to reflect this new information.

02:52 Ms. Bilitski said they would entertain a revision. She said what they propose is that the binding element would read, "The design of the out-lot buildings shall be in accordance with the applicable form district standards and shall be consistent with the architectural style of the retail buildings and that we would come back to staff for approval."

02:53 It was decided and agreed upon by Ms. Bilitski, that language would be added to the above binding element stating, that if staff is not happy with any changes to the design, those changes would be brought back to DRC.

02:53 Commissioner Blake had a concern about the fountain. He said that the site plan shows a retention pond and he assumes that it will hold water. He further stated that the best mitigation factor for mosquitoes is moving water and the fountain would keep the water moving.

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02:54 Ms. Bilitski said that her client does agree to the fountain and if at some time in the future if it ends up not being wet, then they will come back for the Commissioners' approval.

02:55 Commissioner Hamilton asked if MSD has signed off on this and if there were any concerns about this being a wetland area. Ms. Bilitski replied that has not come up in any agency reviews.

Commissioner Hamilton said the area looks like it is heavily wooded and asked about the quality of the woodlands and if there is an opportunity to try and save some of the trees and possibility incorporate those into the design.

02:55 Mr. Perry said that they considered preserving some trees, but due to the nature of the drain work, they will not be able to preserve any of the trees.

02:56 Ms. Bilitski replied that they are meeting the tree canopy requirements of the Land Development Code by adding new tree plantings. She further stated that they are providing a parkway buffer along Greenbelt Hwy.

**Business Session**

In a business session subsequent to the public hearing on this request, the Commission took the following action.

**Zoning**

On a motion by Commissioner Wells-Hatfield the following resolution was adopted.

**WHEREAS**, The Louisville Metro Planning Commission finds this development will be compatible with existing development in the area; and

**WHEREAS**, The Louisville Metro Planning Commission finds this proposed land use is located in the Neighborhood Form District which encourages a scale of development to be compatible with the existing neighborhood; and

**WHEREAS**, The Louisville Metro Planning Commission finds this proposed land use is located in an area with sufficient population to support it; and

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**WHEREAS,** The Louisville Metro Planning Commission finds this proposed land use will serve as a transition between the Wall-Mart Supercenter to the west and the commercial and multi family uses to the east; and

**WHEREAS,** The Louisville Metro Planning Commission finds based on the record and testimony given here today, the staff report, the applicants materials and the applicants findings of fact; and

**WHEREAS,** The Louisville Metro Planning Commission finds this zoning change does not violate Cornerstone 2020 or the Land Development Code; and

**WHEREAS,** the Louisville Metro Planning Commission ("the Commission") finds that the applications for a change in zoning from R-4 Single Family Residential to C-1 Commercial and conditional use permit for restaurants with outdoor dining where alcohol is served (the "Applications") comply with Guideline 1 of the Comprehensive Plan (the "Comprehensive Plan") because the subject property lies within the Neighborhood Form Area; Guideline 1.B.3 provides that the Neighborhood Form may contain, at appropriate locations, neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services, provided they are developed at a scale that is appropriate for nearby neighborhoods and provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit; and

**WHEREAS,** the Commission finds that the Applications comply with Guideline 1 of the Comprehensive Plan because the subject property is located on the south side of Greenbelt Highway, a major arterial, between Dover Avenue and Bridge Avenue, a currently unimproved right-of-way; across Dover Avenue to the west of the site are single family residential homes, and directly to the west of that is the Wal-Mart Supercenter development, which was recently rezoned to C-2 Commercial and R-5A Multi-Family Residential and placed in the Suburban Workplace Form District; to the east of the subject site, on the other side of Bridge Avenue, are single family residential homes, and directly to the east of that, across the Mill Creek Cutoff Ditch, are several apartment buildings and commercial buildings that are zoned R-7 Multi-Family Residential and C-1 and C-2 Commercial; due to its location on a heavily-traveled major arterial with commercial developments to the east and west, the site is not suitable for residential development; the proposed neighborhood center will promote shorter commute times because it will capture drive-by trips along Greenbelt Highway additionally, the development provides an adequate level of vehicular, pedestrian and transit connectivity because the property is located on an existing TARC

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route, and pedestrian walkways will be provided throughout the site, linking the various uses on the site with each other and with adjacent properties; and

**WHEREAS**, the Commission further finds that the Applications comply with Guideline 1 of the Comprehensive Plan because the subject property's location is ideally suited for a neighborhood center due to its location along Greenbelt Highway near the commercial developments to the east and west; no direct access is proposed from Greenbelt Highway; site access is provided via Dover Avenue and Bridge Avenue, filtering incoming traffic from the heavier traffic along the major arterial of Greenbelt Highway; in addition, well-delineated walkways constructed throughout the parking areas will further enhance the streetscape character and promote the neighborhood/pedestrian experience; and

**WHEREAS**, the Commission further finds that the Applications comply with Guideline 1 of the Comprehensive Plan because the development will contain a mixture of neighborhood-serving commercial uses which will be appropriate in terms of scale and intensity for a neighborhood center; landscaping will be installed around the perimeter of the site to ensure the proposed development will be adequately buffered from the adjacent residential uses; and the site will be developed at a neighborhood scale incorporating a high level of architectural design which is compatible with the surrounding area, and will serve as an appropriate transition between the Wal-Mart Supercenter to the west and the commercial and multi-family uses to the east; and

**WHEREAS**, the Commission finds that the Applications comply with Guideline 2 of the Comprehensive Plan because the subject property is located in an existing activity center on Greenbelt Highway, a major arterial; commercial zoning already exists on both sides of Greenbelt Highway just west of the subject property at the recently-constructed Wal-Mart Supercenter and the C-1 Commercial lots to the east of the subject site; the site will contain a mixture of uses, such as neighborhood-serving retail and restaurants, that are compatible with each other as well as the uses in the area; the property is served by existing roadway infrastructure and will not interfere with minor residential service streets; by providing services that meet the day-to-day needs of nearby residents and employees, the proposed development results in an efficient land use by enabling area residents to minimize vehicular miles traveled, as well as total travel time, in order to minimize air pollution and conserve fuel; the development is located to take advantage of the existing transportation system and to complement the overall development of the area; and being situated on Greenbelt Highway, a major arterial, immediately west of Cane Run Road,



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another major arterial, the subject site is located where adequate infrastructure exists for employees, residents and movement of goods; and

**WHEREAS**, the Commission further finds that the Applications comply with Guideline 2 of the Comprehensive Plan because sidewalks will be built throughout the entire development to provide adequate pedestrian linkages to and through the development, as well as linking the development with surrounding residential areas; the parking areas are located and designed to ensure safe pedestrian connectivity between the proposed structures; the proposed development contains significant landscaping, pedestrian connections, and shared parking; and the buildings will be articulated to provide visual interest, and will include an architectural focal point located at the southeast corner of the property between the two retail buildings, which will be visible throughout the development and from Greenbelt Highway; and

**WHEREAS**, the Commission finds that the Applications comply with Guideline 3 of the Comprehensive Plan because the subject property is located along Greenbelt Highway, a major arterial; to the east are several R-5 Single Family Residential lots followed by several lots across the Mill Creek Cutoff Ditch that are variously zoned C-1 Commercial, C-2 Commercial, and R-7 Multi-Family on which are located a Lions Club, several apartment buildings, and a commercial building containing a restaurant and bar/package liquor store; to the west of the subject site are several R-4 Single Family Residential lots followed immediately by the Wal-Mart Supercenter development, which was recently rezoned to C-2 Commercial and R-5A Multi-Family and placed in the Suburban Workplace Form District; the nearby Wal-Mart development contains a Wal-Mart Supercenter, a Sonic fast food restaurant, and a separate retail building; and across the street from the Wal-Mart Supercenter is a C-2 Commercial lot containing a self-storage business; and

**WHEREAS**, the Commission further finds that the Applications comply with Guideline 3 of the Comprehensive Plan because the layout of the proposed development honors the character of the Neighborhood Form District; the proposed development will provide landscape buffer areas around the entire perimeter of the property, which will contain plantings in accordance with the Land Development Code; there is a 25-foot landscape buffer along the south property line, and the residential properties along the western and eastern edges of the property are buffered by landscape buffer areas of at least 10 feet; the 30-foot parkway buffer along the Greenbelt Highway frontage of the development and the detention basin located at the northwest corner of the development along

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the Dover Avenue entrance will ensure that the scenic character of the roadway is retained; dumpsters and service areas will be fully screened, and outdoor lighting and signage will meet the requirements of the Land Development Code; these design measures will ensure that there will be no adverse noise, odor, or visual impacts on the adjoining residential areas; and

**WHEREAS**, the Commission further finds that the Applications comply with Guideline 3 of the Comprehensive Plan because the proposed development will contain sufficient parking, which is designed to be safe and simple, including handicap-accessible parking spaces in accordance with local, state, and federal requirements; and the development utilizes shared parking in order to minimize impervious land surfaces; and

**WHEREAS**, the Commission further finds that the Applications comply with Guideline 3 of the Comprehensive Plan because the proposed development will enable proper stormwater handling and release management that will not adversely affect adjacent and downstream properties; the development incorporates a retention pond at the property's northwest corner at the intersection of Greenbelt Highway and Dover Avenue, which will serve as a focal point for the development; the retention pond will accommodate onsite drainage and mitigate any impacts of the proposed development to the watershed and its capacity to transport stormwater; the stormwater detention design is required to receive MSD approval; in addition, the applicant will submit an Erosion Prevention and Sediment Control Plan in accordance with MSD's best management practices prior to commencing construction of the development; and

**WHEREAS**, the Commission further finds that the Applications comply with Guideline 3 of the Comprehensive Plan by providing a mixture of compatible uses that are responsive to the specific needs of the residents of this area, which will enable area residents and future employees to minimize vehicular miles traveled, as well as total travel time, to minimize air pollution and conserve fuel; the development will provide neighborhood serving uses that minimize land use incompatibilities and the impact on public facilities; the mixture of neighborhood-serving uses proposed, the design and layout of the buildings, and the extensive landscaping will result in a neighborhood center that serves the needs of the local residents in an effective manner, while retaining the neighborhood character and ensuring there will be no adverse noise, odor, or visual impacts on the residential properties in the vicinity; and the proposed development will serve as

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an appropriate transition between the Wal-Mart Supercenter to the west and the commercial and multi-family uses to the east; and

**WHEREAS**, the Commission finds that the Applications comply with Guidelines 4 and 5 of the Comprehensive Plan because significant open space is provided to protect natural resources and meet aesthetic needs, including a 30-foot parkway buffer along Greenbelt Highway, and other perimeter landscape buffer areas shown on the development plan; these buffer areas, in combination with the large retention pond on the site, integrate natural areas and open space with the community because they are linked by an interconnected system of walkways linking adjoining areas with the shopping, restaurants, and other focal points within the development; and

**WHEREAS**, the Commission finds that the Applications comply with Guideline 6 of the Comprehensive Plan because the proposed neighborhood center will bring investment and promote economic development to the area by bringing neighborhood-serving uses where such uses are currently lacking; the location of the property on Greenbelt Highway, a major arterial, immediately west of the major arterial portion of Cane Run Road, is an appropriate location for a neighborhood center because the infrastructure already exists to serve the development; and the location along a major arterial ensures that the proposed retail center will not adversely affect adjacent areas; and

**WHEREAS**, the Commission finds that the Applications comply with Guidelines 7, 8, and 9 of the Comprehensive Plan because by limiting access to Bridge Avenue and Dover Avenue, the traffic carrying capacity of Greenbelt Highway will not be adversely affected; the proposed access drives will not adversely affect adjacent areas; the proposed entrances are located to facilitate safe vehicular and pedestrian access to and from neighborhood retail shopping facilities and adjacent land uses; sidewalks will be provided along Greenbelt Highway, Dover Avenue and Bridge Avenue, and throughout the development, ensuring that the proposed uses are easily accessible by pedestrians, bicycles, and motor vehicles alike; and

**WHEREAS**, the Commission further finds that the Applications comply with Guidelines 7, 8, and 9 of the Comprehensive Plan because the traffic generated by the site itself will not significantly impact the traffic on Greenbelt Highway; being a neighborhood-serving center, the development will primarily capture drive-by trips as opposed to generating new trips on Greenbelt Highway; improvements will be made to both Dover Avenue and Bridge Avenue, so that

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both will adequately handle the traffic entering and exiting the proposed development;

**WHEREAS**, the Commission further finds that the Applications comply with Guidelines 7, 8, and 9 of the Comprehensive Plan because the development provides a mixture of compatible uses, that will enable area residents and future employees to minimize vehicular miles traveled, and travel time in order to minimize air pollution and conserve fuel; the development is located to take advantage of the existing transportation system and to complement the overall development of the area; being located on Greenbelt Highway, a major arterial with ready access to I-264 via the major arterial Cane Run Road, the subject site is located where adequate infrastructure access exists for the efficient movement of people and goods; adequate parking spaces are provided on the subject property as required by the Land Development Code, including handicapped spaces as required by the ADA; and bicycle amenities will be provided in accordance with the Land Development Code; and

**WHEREAS**, the Commission finds that the Applications comply with Guidelines 10 and 11 of the Comprehensive Plan because the subject property contains no environmental constraints which would prevent commercial development of this property; the property is located above the 100-year flood plain, and does not contain slopes, unstable soils, or blueline streams; the proposed development will be located on a site that will enable proper stormwater handling and release management that will not adversely affect adjacent and downstream properties; in addition, an Erosion Prevention and Sediment Control Plan utilizing MSD's best management practices will be implemented prior to commencing construction of the development; the retention pond will accommodate onsite drainage and mitigate any impacts of the proposed development to the watershed and its capacity to transport stormwater; and the stormwater detention design is required to receive MSD approval prior to construction of the proposed development; and

**WHEREAS**, the Commission finds that the Applications comply with Guideline 12 of the Comprehensive Plan because the proposal represents an efficient land use pattern and that utilizes current traffic patterns; the proposed development will enable and promote a reduction in vehicle miles traveled; the proposed sidewalks through and around the neighborhood center will encourage increased pedestrian travel in an effort to reduce the air impacts of the development; the mixture of proposed uses on the subject property will also aid in reducing commuting time and transportation-related air pollution; the subject site is located

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on a major arterial which is currently served by TARC; and the existing roadway infrastructure provides adequate capacity for the minimal additional traffic generated by this development; and

**WHEREAS**, the Commission finds that the Applications comply with Guideline 13 of the Comprehensive Plan because proposed landscaping and tree canopy meet or exceed all Land Development Code requirements; perimeter landscape buffer areas will further enhance the aesthetic quality of the site and will ensure that the surrounding uses are adequately buffered from the proposed development; the 30-foot parkway buffer area and the retention pond along the Greenbelt Highway frontage will protect the scenic character of the roadway; and outdoor signage and lighting will comply with the Land Development Code and will be compatible with the surrounding area; and

**WHEREAS**, the Commission finds that the Applications comply with Guidelines 14 and 15 of the Comprehensive Plan because the subject property is served by all necessary utilities, including water, sewers, and electricity, and existing infrastructure has adequate carrying capacity for the proposed development; and the subject property has adequate fire and police protection because it is served by the Pleasure Ridge Park Fire Department and the Louisville Metro Police Department; and

**WHEREAS**, the Commission finds that the change in zoning application complies with KRS 100.213 because the existing residential zoning of the property is not appropriate, and the proposed commercial zoning is appropriate; the property is not suited for residential use due to the subject property's location on Greenbelt Highway, a major arterial, within an existing activity center where commercial zoning already exists to the east and west; and recent changes have occurred in the area, including the construction of the Wal-Mart Supercenter, which make the property more suitable for a neighborhood center; and

**WHEREAS**, the Commission finds that the application for a conditional use permit for restaurants with outdoor dining where alcohol is served complies with all listed requirements of Land Development Code Section 4.2.41 because the outdoor areas for the sale and consumption of alcohol have designated boundaries as shown on the development plan; there are no outdoor dining areas located within public rights-of-way and, as a result, no additional transportation engineering review is required; there will be no outdoor dining areas adjacent to public rights-of-way; no outdoor dining areas will be located within 50 feet of residentially zoned or used property; screening and landscaping

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will be provided as shown on the approved Development Plan; the restaurants will hold either a restaurant liquor and wine license by the drink for 100+ seats, or will have seating for 50 or more persons, will receive at least 70% gross receipts from food sales, and will hold a restaurant wine license by the drink; and the use of the outdoor dining areas for the sale and consumption of alcohol will cease by 1:00 a.m.

03:06 Commissioner Ernst asked if there was a water line on the site. Commissioner Carlson replied that fire hydrants are required so there must be a water line on site.

Mr. Petty explained what options they have to provide a water line to the area, such as a possible connection from the Wal-Mart property. Currently there is no water line in the Greenbelt area.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative body of Louisville Metro Council that the zoning change in case number 10790 be approved.

**The vote was as follows:**

**YES: Commissioners, Ernst, Wells-Hatfield, Tomes, Blake, Carlson, Abstain and Storm.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioner Howard.**

**ABSTAINING: Commissioner Hamilton.**

**Conditional Use Permit**

On a motion by Commissioner Wells-Hatfield the following resolution was adopted.

**WHEREAS**, the Louisville Metro Planning Commission adopts the applicant's findings of fact for the Conditional Use Permit, and

**WHEREAS**, the Louisville Metro Planning Commission finds based on the applicant's booklet, along with the record, the testimony given here today, the staff report, the applicant's material and findings of fact; and

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**WHEREAS**, the Louisville Metro Planning Commission finds this Conditional Use Permit will not violate Cornerstone 2020 or the Land Development Code.

Now therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Conditional Use Permit on property located at 3201 Dover Avenue associated with case number 10790.

**The vote was as follows:**

**YES: Commissioners, Ernst, Wells-Hatfield, Tomes, Blake, Carlson, Abstain, Hamilton and Storm.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioner Howard.**

**ABSTAINING: No one.**

**Waiver**

On a motion by Commissioner Wells-Hatfield the following resolution was adopted.

**WHEREAS**, The Louisville Metro Planning Commission does hereby adopt the applicant's findings of facts; and

**WHEREAS**, The Louisville Metro Planning Commission finds based on the applicant's booklets, findings of fact, the record and testimony given today, the staff report, the applicant's material; and

**WHEREAS**, The Louisville Metro Planning Commission finds this waiver does not violate Cornerstone 2020 or the Land Development Code; and

**WHEREAS**, the Louisville Metro Planning Commission (the "Commission") finds, based on the staff report, evidence and testimony presented at the public hearing and the applicant's proposed findings of fact, that the granting of the requested waiver of LDC Section 5.6.1.C.1 to permit less than 50% of the wall surfaces at street-level to consist of clear windows and doors will not adversely affect adjoining property owners because there is a densely wooded area located immediately east of Bridge Avenue, which poses a significant security concern; the applicant will construct a portion of Bridge Avenue, which is currently

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unimproved right-of-way, to improve access to the center as well as for nearby residents; design renderings submitted by the applicant demonstrate that the new center will reflect a high level of architectural design by incorporating a mixture of materials and design features, including the use of brick, columns, pilasters, glass, awnings and varied roof line to create visual interest; and the applicant has revised the building design to improve the visual appearance the rear of the along Bridge Avenue by adding awnings above all doors, signage on the rear of the building, spandrel glass recessed in the wall on either side of the rear doors, and by varying the color of the split face block around the doors; and

**WHEREAS**, the Commission finds that the requested waiver will not violate the Comprehensive Plan because the proposed development complies with the Neighborhood Form District in terms of mass, scale, height and design and is compatible with recent commercial development to the west, which includes a Wal-Mart Supercenter with an adjoining retail center, a Sonic restaurant, and Another Room Self Storage; proposed landscaping will significantly exceed Land Development Code landscaping requirements, which will serve to break up parking areas and enhance the center's overall aesthetic appearance; the rendering submitted demonstrates that the new center will incorporate a high level of architectural design; and for all reasons set forth in the applicant's proposed findings of fact for the change in zoning and conditional use permit, which findings are incorporated herein by reference; and

**WHEREAS**, the Commission finds that the requested waiver is the minimum necessary to afford relief because safety and security concerns prevent the applicant from meeting the requirement of providing 50% windows and doors on the rear of the building along Bridge Avenue, however, the applicant has greatly enhanced the appearance of the rear façade by adding awnings above the doors, signage, and spandrel glass, and by varying the color of the split face block around the doors; and

**WHEREAS**, the Commission finds that the applicant has incorporated other design measures that exceed the minimum s of the district and compensate for noncompliance with the LDC requirement being waived, including changing the roof design from a hip-style roof to a flat roof, and improving the rear façade along Bridge Avenue by adding awnings, signage, spandrel glass and varying the color scheme as previously described; landscape buffer areas will be created along the perimeter of the development and interior parking areas to further enhance the center's streetscape and pedestrian experience; proposed perimeter landscaping will include a 30-foot parkway buffer area across the



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frontage of the property and a 50-foot setback across much of the rear of the property; and interior landscaping of the vehicular use areas will exceed minimum requirements by 27%.

Now therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **GRANT**, the waiver in case number 10790 to waive the building façade requirements.

**The vote was as follows:**

**YES: Commissioners, Ernst, Wells-Hatfield, Tomes, Blake, Carlson, Abstain, Hamilton and Storm.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioner Howard.**

**ABSTAINING: No one.**

**Development Plan**

On a motion by Commissioner Wells-Hatfield the following resolution was adopted.

**WHEREAS**, The Louisville Metro Planning Commission finds that based upon additional binding elements and that the applicant meets the Parkway Standards listed in the site plan presented today; and that the binding elements with regard to the out lot buildings be brought back to staff for approval; and

**WHEREAS**, The Louisville Metro Planning Commission finds that, the applicant needs to work to the extent possible with the two adjacent property owners on Dover Avenue, so that City water can be provided and that property owners should not bear any of the costs.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan, in case number 10790, subject to the following binding elements and to include additional binding elements found in the applicants booklet and an additional binding element agreed upon that the property will be maintained and the landscaping will be replaced if need be, in a reasonable time frame:

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**Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed:  
  
Tract 1: 4,160 square feet of gross floor area  
Tract 2: 3,000 square feet of gross floor area  
Tract 3: 6,000 square feet of gross floor area  
Tract 4: 29,191 square feet of gross floor area
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. A minor subdivision plat shall be recorded (creating the lot lines as shown on the development plan/dedicating additional right-of-way to Bridge Avenue and Dover Avenue. A copy of the recorded

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- instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
- d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

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9. The materials and design of proposed retail structures shall be substantially the same as depicted in the rendering as presented at the March 19, 2009 Planning Commission meeting.
10. The design of the buildings on tracts 1, 2, and 3 shall be in accordance with applicable form district standards and shall be consistent with the architectural style of the retail buildings. Prior to requesting a building permit for tracts 1, 2, or 3, detailed elevations of the building shall be reviewed and approved by Planning and Design Services staff.
11. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
12. The dumpster enclosures on all tracts shall be masonry to match the buildings.
13. The retention basin shall have a fountain as part of the focal point for the site.
14. All required landscape areas shall be irrigated.
15. Groundcover shall be planted in the interior landscape islands.

**Proposed Additional Binding Elements**

1. Prior to requesting a building permit for any building on the subject property, a plan showing the size and design details of the freestanding signage on site shall be reviewed and approved by Planning and Design Services staff.
2. The site shall be maintained and dead or dying landscaping shall be removed and replaced within 60 days or other appropriate time as determined by Planning and Design Services staff.

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**The vote was as follows:**

**YES: Commissioners, Ernst, Wells-Hatfield, Tomes, Blake, Carlson,  
Abstain, and Storm.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioner Howard.**

**ABSTAINING: Commissioner Hamilton.**